

MINUTES
WARRICK COUNTY AREA PLAN COMMISSION
Regular meeting held in Commissioners Meeting Room,
Third Floor, Historic Court House,
Boonville, IN
Monday, June 11, 2012, 6:00 PM

A moment of silence was held followed by a Pledge of Allegiance.

MEMBERS PRESENT: Guy Gentry, President; Mike Moesner, Brad Overton, Marlin Weisheit, Larry Willis and Jeff Valiant.

Also present were Morrie Doll, Attorney, Sherri Rector, Executive Director and Sheila Lacer, Staff.

MEMBERS ABSENT: Amanda Mosiman

MINUTES: Upon a motion by Mike Moesner and seconded by Larry Willis, the Minutes of the Executive Session held May 14, 2012 and the last regular meeting held May 14, 2012, were approved as circulated.

The President explained the Rules of Procedure to the audience.

SUBDIVISION FOR PRIMARY PLAT APPROVAL:

PP-12-04 – Kirby Broadview Farms Estates Subdivision by Kirby Broadview Farms, Inc., James Kirby, Pres. 10.28 acres located on the S side of Millersburg Rd. approximately 500' E of the intersection formed by Millersburg Rd. (N 100) & Eskew Rd. (W 300), Boon Twp. *Complete legal on file. Advertised in the Boonville Standard May 3, 2012. Con't from May 14, 2012.*

Mrs. Rector said neither the owner nor the engineer was present for the Drainage Board or Commissioners Meeting and they are not present for this meeting. She said they were sent agendas.

Larry Willis made a motion to continue PP-12-04 to the July, 9, 2012, meeting. The motion was seconded by Brad Overton and unanimously carried.

AMENDING ORDINANCES TO THE COMPREHENSIVE ZONING ORDINANCE:

AN ORDINANCE TO AMEND ARTICLE II DEFINITIONS SECTION 2 TERMS DEFINED BY ADDING URBAN AREA TO THE COMPREHENSIVE ZONING ORDINANCE IN EFFECT FOR WARRICK COUNTY, INDIANA. *Advertised in the Boonville Standard May 31, 2012.*

The purpose of this ordinance is to add a definition of "urban area".

Mrs. Rector said she sent these ordinances to them via email and this was all discussed in a meeting and it is following Indiana Code in regards to mineral extraction and what the County can govern. She asked Attorney Doll to explain further.

Attorney Doll said a number of years ago the Indiana General Assembly removed the ability of local zoning regulations to impact mineral extractions except within corporate boundaries and soon to be except within a flood plain and also finally except in non-corporate areas or urban areas if they have a minimum of eight residences within a quarter square mile section of land. He said if they have a proposed mine site and any part of has a quarter square mile section that would touch either within or the boundary of the proposed mine site and it had at least eight residences in it; Warrick County through the zoning code could verify it required a Special Use and meets the six criteria for mineral extraction. He said this brings their ordinance into conformance with the State Statute and Appellate Court decisions.

Ascertaining there were no questions from the Board and being no remonstrators present, the President called for a motion.

Larry Willis made a motion to recommend approval to the County Commissioners of this amending ordinance. The motion was seconded by Brad Overton and unanimously carried.

AN ORDINANCE TO AMEND ARTICLE V SPECIAL USES SECTION 3 SPECIAL USE DESIGNATIONS SUBSECTION SU-13 MINERAL EXTRACTION, STORAGE AND PROCESSING, AND/OR OIL/GAS PRODUCTIONS TO THE COMPREHENSIVE ZONING ORDINANCE IN EFFECT FOR WARRICK COUNTY, INDIANA. . *Advertised in the Boonville Standard May 31, 2012.*

The purpose of this ordinance is to clarify the requirements of an SU-13 in flood hazard areas and urban areas per Indiana Code 36-7-4-1103.

Attorney Doll said this amendment deals with regulating mineral extraction in areas within a flood plain; but, excluding underground mineral activities from regulation unless there is a surface use or disruption occurring. He said there is a mine that originates in Pike County and is underground in Warrick County; however there is no surface disturbance but the statute right now would require a Special Use. He said this was also brought to their attention and so this is the time to clean this up as well.

Ascertaining there were no comments from the Board and being no remonstrators present, the President called for a motion.

Brad Overton made a motion to recommend approval to the County Commissioners of the amending ordinance. The motion was seconded by Mike Moesner and unanimously carried.

AN ORDINANCE TO AMEND ARTICLE V SPECIAL USES SECTION 5 PROCEDURE BY ADDING SUBSECTION L TO THE COMPREHENSIVE ZONING ORDINANCE IN

EFFECT FOR WARRICK COUNTY, INDIANA. . *Advertised in the Boonville Standard May 31, 2012.*

The purpose of this ordinance is to set additional requirements for applicants filing for a Special Use (SU 13).

Attorney Doll said this last amending ordinance is dealing with how they will know if there is an urban area. He said the Executive Director suggested if a mine is intending to do mineral extraction in Warrick County they will be asked to submit documentation to the office and it would be scheduled for a site review meeting. He said the primary purpose would be first to demonstrate whether or not within a one quarter square mile area abutting this area or included within it has at least eight residences or it is within a floodplain. He said if they can verify at that site meeting that neither of those factual events exists, they would be exempt from local regulation; just subject to State, DNR and IDEM regulations and all the other typical mine permitting. He said if they find in the site meeting they are in the flood plain or in an urban area then they would have to have the SU 13 for the sections of the mine that fall within those definitions.

Ascertaining there were no questions from the Board and being no remonstrators present, the President called for a motion.

Brad Overton made a motion to recommend approval to the County Commissioners of the amending ordinance. The motion was seconded by Jeff Valiant and unanimously carried.

OTHER BUSINESS:

Formal Complaint ~ Frank Schnell dba FIT Tire Recycling, OWNER OF RECORD: J.H. Service Co., Inc., by Ronald Witt, Sr., Pres. ~ Tire storage *Granted 60 days May14, 2012. Thirty day report.*

Mrs. Schnell, Frank Schnell and Isaiah Schnell were present.

The President called for a staff report.

The Executive Director said on May 14, 2012, the Board ruled to allow them an additional sixty days to clean up the property and wanted a progress report within thirty days. The Zoning Inspector went to the property on Friday, June 8, 2012 and reports *I have revisited this site. There has been a lot of cleanup on this site. They still have a lot of cleanup to do. This site looks a lot better than the last time I visited.*

Isaiah Schnell said he and his mom have been working hard and the dump is supposed to come and take another load. He said they do have more to clean up but he and his mom are doing the best they can do.

Mike Moesner said it looks a lot better.

Marlin Weisheit said they have been pretty busy. He said he knows it is hard work.

Guy Gentry said they are on course and hopefully will see more progress in the next thirty days.

Formal Complaint ~ Clint A. & Jennifer M. Roberts ~ 6344 Oak Grove Road ~ operating a landscaping business in an "A" Agriculture zoning district.

Mr. Roberts was not present.

Mrs. Rector said Mr. and Mrs. Griffin filed the complaint and they are here. She said Mr. Roberts came before the Plat Review Committee on January 25, 2012 regarding his landscaping business. She said he asked about rezoning his property to commercial or filing for a home workshop. She said Mr. Roberts was considering purchasing an adjacent lot in Blue Lake Subdivision was considering constructing an unattached garage for his business on the vacant lot and he was told he needed to check the private restrictions for Blue Lake Subdivision because their private restrictions may prohibit an accessory building on a lot without a residence. She said it was discussed that he may need to replat the lots in order to combine them and give him enough property for a home workshop and it was discussed that he had four trucks for his business and needed at least a 4,000 square foot building. She added he was informed then he was in violation and needed to come into compliance but he never filed any application. She said a few days later she spoke to Danny Ubelhor, the developer of the subdivision, and he said they would absolutely not want commercial zoning in their subdivision. She said a complaint was filed May 3, 2012, stating Mr. Roberts is *Running a landscaping business out of his home. The home is situated in Blue Lake Subdivision and zoned residential. Currently 2 large covered commercial trailers and two open trailers are parked at the residence at all hours when they are not take out to cut grass. Eleven employees begin early in the morning congregating in the driveway and park their cars in the yard when they leave with the trailers.* She said the complainant also supplied photographs with the complaint. (Copies in packets). She said she went to the property May 6, 2012 and took photos and the pictures show two covered trailers, two pickup trucks (with logos) and two open trailers. She added she sent a letter on May 16, 2012, informing them of the complaint and reminding him of the site review meeting and told him he was in violation of the ordinance and that he was to cease and desist operation at this site immediately and that this would be placed on tonight's agenda.

Mrs. Rector said Mr. Roberts telephoned the office after receiving this letter and spoke to staff stating he would be in contact with his attorney. She said he sent a letter to the office saying *As of June 4, 2012 under direction by legal counsel we will start moving our trailers and trucks to a*

new location in which I have attached. This location will only be temporary until we find an adequate location for Super Cutz Lawn Care. With careful consideration to my profession I will not extend favor to other companies working inside Warrick County without proper zoning. In the coming weeks I will document and submit information to your office for review through counsel. I would expect the same latitude you have given me. She said the attached sheet was from Google Earth and showed the location of 2030 S Green River Rd in Evansville.

Mrs. Rector said she drives by this property daily and hasn't seen any vehicles on the property for the last week.

Mike Griffin said the only thing that he has had there and it has also been removed is a small pick-up truck with the Super Cutz on it and a trailer. He said he had six large trailers but they have moved them and he took a picture with his phone and as of today there are no vehicles there.

Larry Willis made a motion according to the evidence provided by staff and the complainant the property is no longer in violation and remove it from the agenda. The motion was seconded by Mike Moesner and unanimously carried.

Mr. Griffin was informed that if the vehicles reappear he would need to file a new complaint.

Warrick County Commissioners Resolution 2012-04 – A resolution regarding the present condition of 4811 Overland Drive, Newburgh, Indiana. *Con't from April 9, 2012.*

Mrs. Rector said as they remember in April, State Farm Insurance asked them to continue this in until their June meeting hoping that everything would be settled by that time. She said she spoke to State Farm Insurance on June 5th and was informed the claim had been approved and they directed me to the home owner's attorney, James Kornblum. She added she received an email from Mr. Kornblum on June 6th which states *...Just last week, and more than six months after the loss, State Farm Fire Insurance Company initiated settlement of Ms. Alfrey's claim, which included an initial payment toward restoration or demolishment of the structure. With this action, Ms. Alfrey has begun the process of contacting building contractors to move forward with repair or demolition. In essence, not that State Farm Fire Insurance Company has initiated settlement of this loss; Ms. Alfrey desires to move forward with repair or demolition as expeditiously as possible under the circumstances.* She said she believes a recommendation from the Attorney as to what the next step should be.

Attorney Doll said it would be his recommendation they continue this for a period of time they think is reasonable for them to complete either restoration or demolition.

Marlin Weisheit made a motion to continue this matter for sixty days because by then it should be cleaned up and in compliance. The motion was seconded by Larry Willis and unanimously carried.

ATTORNEY BUSINESS

None.

EXECUTIVE DIRECTOR BUSINESS:

Mrs. Rector said she held interviews last week and gave tests and she has hired Molly MacGregor who will begin employment a week from Wednesday and Tara Dickerson will begin in August once the part time employee leaves for college.

Mrs. Rector said she will bring the budgets to them at the next meeting for their review and approval.

Marlin Weisheit asked if there has been any more problems with the sewer gas in the office.

Mrs. Rector said not since he made sure it was fixed and she appreciated the things he has taken care of since he has been in office.

Being no other business the meeting adjourned at 6:30 p.m.

Guy Gentry, President

ATTEST:

Sherri Rector, Executive Director